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Before the  
FEDERAL COMMUNICATIONS COMMISSION  
Washington, D.C. 20554

FEDERAL COMMUNICATIONS COMMISSION  
OFFICE OF THE SECRETARY

In the Matter of )

Implementation of Section 26 of the )  
Cable Television Consumer Protection )  
and Competition Act of 1992 )

Inquiry into Sports Programming )  
Migration )

PP Docket No. 93-21

MOTION TO ACCEPT LATE-FILED COMMENTS


Rainbow Programming Holdings, Inc. ("Rainbow"), by its attorneys, hereby moves that the Commission accept the attached comments in the above-captioned proceeding. The comments were not filed yesterday, the date established for filing, because of an unforeseen delay in obtaining some of the information necessary to respond to issues raised in the Further Notice of Inquiry in this matter.

Respectfully submitted,

RAINBOW PROGRAMMING HOLDINGS, INC.

Of Counsel:

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April 12, 1994

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**COMMENTS OF RAINBOW PROGRAMMING HOLDINGS, INC.**

Rainbow Programming Holdings, Inc. ("Rainbow"), by its attorneys, hereby submits its comments in response to the Further Notice of Inquiry ("Further Notice")<sup>1/</sup> in the above-captioned proceeding.

Rainbow, a wholly-owned subsidiary of Cablevision Systems Corporation ("Cablevision"), is the managing general partner of several partnerships<sup>2/</sup> that provide national and regional programming available to in excess of 120,000,000 subscribers collectively. These programming services include eight regional

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<sup>1/</sup> In the Matter of Implementation of Section 26 of the Cable Television Consumer Protection and Competition Act of 1992, PP Docket No. 93-21, FCC 94-65 (rel. March 11, 1994).

<sup>2/</sup> Subsidiaries of the National Broadcasting Company ("NBC") are general partners in each of the partnerships; subsidiaries of Liberty Media Corporation ("Liberty"), which holds interests in several other programming services, are general partners in several of the regional sports services and Prime SportsChannel Networks. Each of the programming services is organized as a separate partnership with its own general manager and sales, marketing, programming, and production staffs. Rainbow provides legal, accounting, human resources, and other support services for all of the partnerships.

SportsChannel services, the national backdrop sports services of Prime SportsChannel Networks, and Prism, a premium sports and movie service serving the Philadelphia market.<sup>3/</sup> Rainbow's SportsChannel services provide regional telecasts of professional and/or college teams based in New York, Philadelphia, New England, Chicago, Cincinnati, Cleveland, San Francisco/Oakland, and Florida, as well as other sports programming.<sup>4/</sup> Prime SportsChannel Networks distributes two national backdrop sports programming networks, NewSport and Prime Network. As regionally-based sports services, the SportsChannels generally compete against non-network television stations for the rights to telecast local sporting events.

As Rainbow demonstrated in its comments in response to the initial Notice of Inquiry issued in this proceeding, cable programmers have significantly expanded the quantity and diversity of sports programming available to viewers. Any reduction of sports programming on broadcast television that may have occurred in recent years is largely a function of decisions made by the broadcasters themselves.<sup>5/</sup> Because Rainbow's initial

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<sup>3/</sup> The other programming services include American Movie Classics, Bravo Network, and News 12 Long Island (a regional news service serving Long Island).

<sup>4/</sup> In December 1992, Rainbow and NBC discontinued the SportsChannel service that provided regional sports programming to the Los Angeles area.

<sup>5/</sup> In the Matter of Implementation of Section 26 of the Cable Television Consumer Protection and Competition Act of 1992, PP Docket No. 93-21, FCC 93-77, Comments of Rainbow Programming Holdings, Inc., March 29, 1993, ("Rainbow Comments") at 10-18.

comments address the broader issues regarding sports programming under consideration in this proceeding, the instant comments are confined to particular matters about which Rainbow has specific knowledge.

#### **I. PHILADELPHIA 76ers**

The Commission solicited information on the telecasting of Philadelphia 76ers games during the 1994-95 season.<sup>6/</sup>

Since the 1991-92 season, Prism has held the local rights to exhibit all Philadelphia 76ers basketball games, both home and away.<sup>7/</sup> Prior to that season, Prism owned only the rights to the team's home games. As described in Rainbow's initial comments, Prism became the local television rights-holder for the 76ers away games only after the team had unsuccessfully attempted to reach an agreement with local broadcasters for televising those road games.<sup>8/</sup> Prism's decision to purchase the rights to the 76ers road games ensured that fans would continue to have an opportunity to watch games that local broadcasters had lost interest in televising.

Prism's contract with the 76ers provides that the team has a right to reacquire a license to ten away games (seven regular

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<sup>6/</sup> Further Notice at ¶ 20.

<sup>7/</sup> Some of the games are exhibited on SportsChannel Philadelphia, a basic cable service and others are seen on Prism, a premium channel. Certain games are distributed in the Philadelphia via broadcast and cable networks pursuant to the NBA's national television agreements.

<sup>8/</sup> Rainbow Comments at 17.

seasons and three pre-season) solely for broadcast on local over-the-air television. Accordingly, in each of the three seasons since Prism obtained the rights to 76ers telecasts, ten games have been broadcast exclusively on local over-the-air television. Both Prism and the 76ers have made considerable efforts to enable these games to be broadcast on local over-the-air television. For instance, in the 1993-94 season, the local broadcaster was willing to pay only a fraction of the per-game license fee that the 76ers charge Prism for the rights to exhibit games. Prism and the 76ers agreed to accept a reduced rate so that the games could be broadcast on the local television station.

The 76ers' right to reacquire a license to ten games for broadcast on local over-the-air television expires at the end of this season. Prism has opened discussions with local stations regarding the possibility of licensing 76ers games for broadcast on local television. Those discussions have not yet concluded.

## **II. CHICAGO BLACKHAWKS**

The Commission also seeks information regarding pay-per-view exhibition of playoff games by the Chicago Blackhawks. There has been no migration of Blackhawks games from broadcast television to pay-per-view, because the team has not in recent history permitted local broadcasting of its home games.<sup>2/</sup> The home

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<sup>2/</sup> Blackhawks games -- both home and away -- were not available on local over-the-air television when Rainbow assumed control over their television rights in 1984. Indeed, to the best of the company's knowledge, no Blackhawks games have been televised on local broadcast stations since at least 1980.

playoff games shown on HawkVision, a pay-per-view service, enable fans to see games that otherwise would be unavailable to them. The pay-per-view exhibition of Blackhawks home playoff games represents an increase in viewing opportunities for Chicago-area hockey fans.

Beginning with the 1992 playoffs, HawkVision has enabled Chicago fans to view home playoff games for the first time since 1985.<sup>10/</sup> Rather than siphoning games away from local broadcast television, Hawkvision has enabled the televising of games that would otherwise be unavailable to viewers. By allowing fans to watch home playoff games that would otherwise not be televised, Hawkvision provides yet another illustration of how non-broadcast distribution media have expanded the opportunities for fans to view sporting events.

#### CONCLUSION

Rainbow's experience televising the games of the Philadelphia 76ers and Chicago Blackhawks demonstrates that cable programmers have entered the sports rights marketplace in a manner that benefits sports fans and expands their access to televised sporting events. Because cable programmers have increased the amount and variety of sports programming available to viewers, the Commission should refrain from adopting any rules

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<sup>10/</sup> Even in 1985, the home playoff games available were exhibited solely on a premium cable service.


that would artificially constrain their ability to compete in the sports licensing rights market.

Respectfully submitted,

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